

The FBI's secret list of

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J. EDGAR HOOVER WANTED TO KEEP TABS
When list got hot, he changed name

During the 1940s, 50s and 60s, the federal government secretly targeted thousands of American citizens for arrest in the event of war or other emergency. Rep. Robert Kastenmeier, D-Wis., says it was nothing less than "a blueprint for the suspension of the Bill of Rights." This story traces the FBI's "Security Index" from beginning to end.

WASHINGTON — In 1943, a wartime attorney general named Francis Biddle decided it was not suitable — even in an hour of maximum peril to the United States — to contemplate mass arrest of American citizens without charging them with a crime.

Biddle, a Harvard Law School honor graduate and former clerk to Supreme Court Justice Oliver Wendell Holmes, ordered J. Edgar Hoover and the FBI to abolish a list of alleged Nazi and Communist sympathizers targeted for arrest and detention in the event of an internal-security emergency. He told Hoover his "Custodial Detention List" was "impractical, unwise and dangerous," not authorized by law and "inherently unreliable."

Hoover, in response, changed the name of the list to "Security Index" and instructed the FBI not to disclose its existence outside the agency. In short, he disobeyed the attorney general's order.

What makes this episode important is that Biddle was unique among the attorneys general who served this nation between 1939 and 1968.

'dangerous' Americans was . . .

In that 29-year span, the FBI — in peace and war — constantly kept a list of "dangerous" persons — as many as 26,174 — who were marked for immediate arrest without formal charges or trial in the event of a national-security emergency declared by the president. As nearly as congressional investigators have been able to determine, Biddle is the only attorney general who tried to put a stop to it. All the others either acquiesced to the mass-arrest plan or gave Hoover written authority to continue it.

The existence of the FBI's Security Index, which had been one of Washington's most closely guarded secrets, has surfaced piece by piece during the last six months during the House and Senate investigations of the intelligence community.

What has not been known until now is that Hoover, except for the two war years under Biddle, had explicit, written authority from his superiors at the Justice Department to keep the index and to develop emergency detention plans.

The Senate committee's final report has concluded that from the late 1940s, the index was "largely a joint FBI-Justice Department program."

One president — Lyndon B. Johnson — was directly involved in the updating of emergency detention plans. After the 1967 march on the Pentagon, he ordered Atty. Gen. Ramsey Clark to review the program. Under Clark's direction, it was brought into conformity with the law to require formal hearings and the right of appeal for anyone arrested and detained.

Congress finally ordered the Security Index

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abolished entirely in 1971. But the FBI, with the approval of Atty. Gen. John Mitchell, again changed its name to "Administrative Index," making secret plans to use it for mass arrests should Congress later restore the authority.

The Senate committee says the FBI recently "abolished completely" the administrative index, but some investigators — looking at the bizarre history of the arrest list — still wonder whether it may be stored in FBI files for revival at a later date.

The origins of the emergency detention list go back to the famous "Palmer raids" of 1920, when the agents of the Bureau of Investigation — forerunner of the FBI — and the Immigration Bureau rounded up some 10,000 persons believed to be members of the Communist and Communist Labor parties. The raids were indiscriminate, and many of those arrested had nothing to do with either party.

Documents obtained by the Senate intelligence committee indicate Hoover, then chief of the Justice

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Department's general intelligence division, had a part in the raids. He had established an index system with over 150,000 3x5 cards naming groups and "individual agitators." Three days before the raids, he asked the Immigration Bureau to suspend regulations that allowed aliens bail and to have a lawyer present during hearings.

In 1939, the FBI — with Justice Department encouragement and under a secret directive from President Franklin D. Roosevelt to investigate potential saboteurs — began preparing a list of individuals "on whom information is available indicating strongly that (their) presence at liberty in this country in time of war or national emergency would constitute a menace to the public peace and safety of the United States government."

This "Custodial Detention List" was to comprise persons "with strong Nazi tendencies" and "with strong Communist tendencies." One group was to be "apprehended and interned immediately upon the outbreak of hostilities between the United States and the government they serve or owe allegiance to," and the other was to be "watched carefully."

As it turned out, after Pearl Harbor only dangerous enemy aliens were arrested, and not American citizens. Under a separate program, which both the Justice Department and the FBI opposed, 112,000 Japanese and Japanese-Americans were placed in detention camps under orders of Roosevelt and the Congress.

The Custodial Detention List was kept secret from Congress throughout the war. However, both Biddle and his predecessor, Atty. Gen. Robert Jackson, did make an effort to keep the FBI under firm control. Jackson asked Hoover to turn over his "dossiers" in 1940 and, when Hoover balked for six months, ordered him to do it. Biddle later ordered the custodial detention list abolished, but Hoover kept it secretly until 1946, when he told Atty. Gen. Tom Clark about it. He did not tell Clark he had defied Biddle's directive.

Under Clark, the Justice Department at the very least did not object to the list. In fact, according to one FBI memo uncovered by the Senate committee, Justice rejected Hoover's plea for legislation to legitimize what he was doing. The department, according to that memo, suggested it would only bring on a "loud and acrimonious discussion," and that in an emergency the president could "suspend the writ of habeas corpus" which would eliminate the right under English common law for the person to know the charges levied against him. What was needed, according to the memorandum, was "sufficient courage to withstand the courts" if they should object to emergency detention.

Almost as amazing as that conclusion by the nation's law-enforcement officers was a 1949 agreement signed by Clark and Defense Secretary James Forrestal. It gave the FBI "complete responsibility for investigating and apprehending the persons to be detained" in an emergency declared by the president.

The FBI quickly developed standards for inclusion on its Security Index, which included "sympathy with the principal tenets of the Communist Party."

By then, the security index had grown to 13,901 names.

The McCarthy era had dawned. Congress got into the act. It passed legislation in 1950 for the arrest and detention of persons in "an internal-security emergency" if there were "reasonable ground to believe" they would commit sabotage. The law, however, provided a small measure of civil liberties to those seized. It guaranteed them a right to a hearing after their arrest, and it provided that the arrests must be made by

individual warrant.

The Justice Department's response: It simply authorized the FBI to disregard the safeguards in the law.

Hoover had advised the department that the new law's requirement for individual warrants "would be a detrimental, time-consuming procedure as compared to the use of one master warrant of arrest for all subjects apprehended."

Atty. Gen. James McGranery, pressed by Hoover for a "definite and clear-cut" directive, issued a top-secret memorandum, of which only three copies were made. The memorandum declared "agreement with your bureau's concepts of the detention program and the Security Index standards as outlined in your memo ..."

In April 1953, Atty. Gen. Herbert Brownell granted the FBI authority "to apprehend all individuals listed in the Security Index" in the event of a surprise attack upon Washington, D.C.

By the end of 1954, the size of the Security Index had increased to 26,174. One FBI memo outlined a special category of "prominent persons" on the index, who would be given a special review. The FBI feared these individuals "would hold themselves out as martyrs" and thus "result in considerable adverse publicity and criticism of the FBI."

By mid-1958, the FBI was encouraging agents to

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interview individuals on the Security Index. "Refusal to cooperate" with the interview should be "taken into consideration along with other facts" in determining how dangerous the person was, one memo declared.

The FBI criteria for inclusion on the Security Index were expanded in 1962, just before the Cuban missile crisis, to include those who participated "in picket lines formed in support of the Cuban government."

The Senate committee said it would have been possible for President Kennedy, with a stroke of the pen, to declare an emergency ordering the arrest of those persons deemed "potentially dangerous" because of pro-Castro sympathies.

The index in 1964 contained 11,165 names. There is little question that the Justice Department knew about the list, since the FBI procedure was to send the names to the department each month for attachment to a "master warrant of arrest" that would have been used to apprehend people, in defiance of the 1962 law requiring individual warrants.

Finally, after the Pentagon march, the policy was reviewed by a presidential directive for the first time. Atty. Gen. Ramsey Clark (Tom Clark's son) ordered that, henceforth, the 1950 law would be obeyed and "any person actually detained will be entitled to a hearing at which time the evidence will have to satisfy the standards of the emergency detention act."

At the same time, the standards for inclusion on the Security Index were vastly broadened to include "anarchistic or revolutionary beliefs" that would cause a person in a national emergency to interfere with the "effective operation of the national, state and local governments and of the Defense Department."

This left the door open for the FBI to investigate leaders and members of the Students for a Democratic Society, black student unions, "and militant independent groups on college campuses which are pro-Communist, New Left type." A 1970 FBI directive to all field offices declared, "Each individual investigated should be considered for inclusion on the Security Index." The targets included "Radical Professors, Graduate Students and Teachers Committee for the Growth of a Revolutionary Socialist Movement in the U.S. and the Vietnam Veterans Against the War."

The Administrative Index was kept in the FBI after Hoover's death until early this year, when Director Clarence Kelley assured the committee it had been entirely eliminated.

If it has, an episode of more than a third of a century which, according to Sen. Walter Mondale, D-Minn., brought the nation "perilously close to a police state," has ended.



ATTY. GEN. BIDDLE CALLED LIST 'UNWISE'
He was alone in standing up to the FBI